

**REMARKS**

**Summary**

Claims 1-26 stand in this application. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested

**35 U.S.C. § 101**

At page 2, paragraph 1 of the Office Action claims 23-26 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the non-statutory subject matter rejection.

The Office Action states that “the storage medium stored thereon instructions that are executed by a processor is not claimed as a computer readable medium.” Applicant respectfully disagrees. According to MPEP 2106(II)(A), the claimed invention as a whole must produce a “useful, concrete and tangible” result to have a practical application.

Applicant respectfully submits that the language of claim 1 provides a useful, concrete and tangible result. Claim 23 provides for “a storage medium; said storage medium including stored instructions that, when executed by a processor, result in managing information by receiving a first request for information for a caller during a call session, retrieving call information associated with said call session, retrieving caller information using said call information, generating a dynamic web page using said caller information, and sending said web page in response to said first request.” Applicant

respectfully submits that these steps provide a useful, concrete and tangible result, e.g. generating a dynamic web page using said caller information. As such, Applicant respectfully submits that claim 23 and any claims directly or indirectly depending therefrom, are directed to statutory subject matter and removal of the non-statutory subject matter rejection is respectfully requested.

Moreover, with respect to claims 23-26, the Office Action alleges that the storage medium as claimed is non-statutory. Applicant respectfully disagrees. Applicant respectfully submits, as recited at page 14 of the specification, that a storage medium is intended to include at least “a machine readable medium and may include any medium capable of storing instructions adapted to be executed by a processor.” Consequently, Applicant respectfully submits that claims 23-26 are directed to statutory subject matter and removal of the non-statutory subject matter rejection with respect to claims 23-26 is respectfully requested.

### **35 U.S.C. § 102**

At page 2, paragraph 3 of the Office Action claims 1-7, 10-17 and 23-26 stand rejected under 35 U.S.C. § 102 as being anticipated by Nishidate, Japanese Patent Publication No. JP 2002-109194 A (hereinafter “Nishidate”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that an accurate English language translation of Nishidate is needed to support the precise facts that the Examiner is relying upon in support of the rejection. The Examiner failed to include an accurate English translation

of Nishidate. Applicant was provided with an English copy of the Abstract and a Japanese language version of the published application. The Office Action, however, does not rely solely on the Abstract and includes numerous citations to the actual Japanese language application. The MPEP 706.02, in relevant part, provides:

Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally inappropriate where both the abstract and the underlying document are prior art. See *Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished). To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection. The rationale for this is several-fold. It is not uncommon for a full text document to reveal that the document fully anticipates an invention that the abstract renders obvious at best. The converse may also be true, that the full text document will include teachings away from the invention that will preclude an obviousness rejection under 35 U.S.C. 103, when the abstract alone appears to support the rejection. An abstract can have a different effective publication date than the full text document. Because all patentability determinations are fact dependent, obtaining and considering full text documents at the earliest practicable time in the examination process will yield the fullest available set of facts upon which to determine patentability, thereby improving quality and reducing pendency. When both the abstract and the underlying document qualify as prior art, the underlying document should normally be used to support a rejection.

Accordingly, Applicant respectfully submits that an accurate English language translation of Nishidate is needed to support the precise facts that the Examiner is relying upon in support of the rejection.

**35 U.S.C. § 103**

At page 6, paragraph 4 claims 8 and 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishidate. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

At page 8, paragraph 1 claims 9 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishidate in view of Bondarenko et al., U.S. Patent Pub No. 2004/0083479. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

At page 9, paragraph 1 claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishidate in view of Aoki, U.S. Patent Pub. No. 2003/0061569 A1. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

As stated above, Applicant respectfully submits that an accurate English language translation of Nishidate is needed to support the precise facts that the Examiner is relying upon in support of the rejection. Nishidate is cited by the Examiner as the primary reference in all 35 U.S.C. 103 rejections. Applicant respectfully submits that a proper response requires an accurate English translation of Nishidate.

**Conclusion**

For at least the above reasons, Applicant submits that claims 1-26 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited

references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-26 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Appl. No. 10/632,286  
Response Dated August 23, 2007  
Reply to Office Action of May 24, 2007

Docket No.: 1020.P16477  
Examiner: Wong, Xavier S.  
TC/A.U. 2609

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040  
Under 37 CFR 1.34(a)

Dated: August 23, 2007

KACVINSKY LLC  
C/O Intellevate  
P.O. Box 52050  
Minneapolis, MN 55402  
(724) 933-5529